

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE JUNE 25, 2014

AMENDED IN SENATE JUNE 9, 2014

AMENDED IN ASSEMBLY MAY 5, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2209**

---

**Introduced by Assembly Member Dickinson**

February 20, 2014

---

An act to amend Sections 2001, 2003, 2010, 2031, 2032, 2036, 2038, 2039, 2043, 2082, 2088, 2102, 2103, 2105, 2124, and 2175 of, and to add Section 2176 to, the Financial Code, relating to money transmission.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2209, as amended, Dickinson. Money Transmission Act.

Existing law, the Money Transmission Act, provides for the regulation of money transmissions and, unless an exemption applies, requires the licensure by the Commissioner of Business Oversight of persons, including corporations and limited liability companies, to engage in this activity. Existing law declares the need to regulate money transmission businesses in the state, to maintain public confidence in financial institutions doing business in this state, and to preserve the health, safety, and general welfare of the people of California. Under existing law, a licensee under the act is required to file various reports with the commissioner with specified information, including the total volume of activities, number of transactions conducted and outstanding money transmissions in California and the United States in a given calendar year quarter, as specified. Existing law makes it a felony to

make a false statement, misrepresentation, or false certification in a record filed or required to be maintained under the act, or to engage in an activity for which a license is required without being licensed or exempt from licensure.

This bill would exempt from the requirements of the act a transaction in which the recipient of the money, or other monetary value is an agent of the payee *pursuant to a preexisting written contract*, and delivery of the money or other monetary value to the agent satisfies the payor's obligation to the payee. The bill would revise and reorganize various provisions of the act relating to, among other things, the definition of relevant terms under the act, and the required contents of license applications and customer receipts. The bill would require that the report described above also include, if feasible whether an outstanding money transmission was conducted via a mobile application or an Internet Web site. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

This bill would authorize the commissioner to exercise any power set forth in the act with respect to a money transmission business, if necessary for the general welfare of the public, regardless of the licensure status of the money transmission business. The bill would revise provisions relating to the commissioner's authority to provide guidance to prospective applicants for a license to operate money transmission business.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 2001 of the Financial Code is amended
- 2 to read:
- 3 2001. The Legislature finds and declares all of the following:
- 4 (a) Money transmission businesses conduct a significant amount
- 5 of business in this state and technological advances are occurring
- 6 in the provision of money transmission services, which have
- 7 expanded money transmission to include the use of mobile

1 applications, alternative point of sale systems, and other consumer  
2 payment systems.

3 (b) Persons who use money transmission businesses in this state  
4 use those businesses for, among other purposes, paying for the  
5 necessities of life and transmitting money to family members.

6 (c) The failure of money transmission businesses to fulfill their  
7 obligations would cause loss to consumers, disrupt the payments  
8 mechanism in this state, undermine public confidence in financial  
9 institutions doing business in this state, and adversely affect the  
10 health, safety, and general welfare of persons in this state.

11 (d) To protect the interests of consumers of money transmission  
12 businesses in this state, to maintain public confidence in financial  
13 institutions doing business in this state, and to preserve the health,  
14 safety, and general welfare of the people of this state, it is necessary  
15 to regulate money transmission businesses in this state.

16 SEC. 2. Section 2003 of the Financial Code is amended to read:

17 2003. For purposes of this division, the following definitions  
18 shall apply:

19 (a) "Affiliate," when used with respect to a specified person,  
20 means any person controlling, controlled by, or under common  
21 control with, that specified person, directly or indirectly through  
22 one or more intermediaries. For purposes of subdivisions (s) and  
23 (x), a specified person is affiliated with another person if that  
24 person controls, is controlled by, or under common control through  
25 the ownership directly or indirectly of shares or equity securities  
26 possessing more than 50 percent of the voting power of that  
27 specified person.

28 (b) "Agent" means a person that is not itself licensed as a money  
29 transmitter in California and provides money transmission in  
30 California on behalf of the licensee, provided that the licensee  
31 becomes liable for the money transmission from the time money  
32 or monetary value is received by that person. However, "agent"  
33 does not include any officer or employee of the licensee when  
34 acting as such at an office of a licensee.

35 (c) "Applicant" means a person that files an application for a  
36 license or for acquisition of control of a licensee under this division.

37 (d) "Average daily outstanding" means the amount of  
38 outstanding money transmission obligations in California at the  
39 end of each day in a given period of time, added together, and  
40 divided by the total number of days in that period of time.

1 (e) “Branch office” means any office in this state of a licensee  
2 or agent at which the licensee receives money or monetary value  
3 to provide money transmission, either directly or through an agent.

4 (f) “Business day” means one of the following:

5 (1) When used with respect to any act to be performed in this  
6 state, any day other than Saturday, Sunday, or any other day that  
7 is provided for as a holiday in the Government Code.

8 (2) When used with respect to any act to be performed in any  
9 jurisdiction other than this state, any day other than a day that is  
10 a legal holiday under the laws of that jurisdiction.

11 (g) “Commissioner” means the Commissioner of Business  
12 Oversight.

13 (h) “Control” has the meaning set forth in Section 1250.

14 (i) “Day” means calendar day.

15 (j) “E-commerce” means any transaction where the payment  
16 for goods or services is initiated via a mobile application or an  
17 Internet Web site.

18 (k) “In California” or “in this state” means physically located  
19 in California, or with, to, or from persons located in California.

20 (l) “Issue” and “issuer” mean, with regard to a payment  
21 instrument, the entity that is the maker or drawer of the instrument  
22 in accordance with the California Commercial Code and is liable  
23 for payment. With regard to stored value, “issue” and “issuer”  
24 mean the entity that is liable to the holder of stored value and has  
25 undertaken or is obligated to pay the stored value. Only a licensee  
26 may issue stored value or payment instruments.

27 (m) “Licensee” means a corporation or limited liability company  
28 licensed under this division.

29 (n) “Material litigation” means litigation that according to United  
30 States generally accepted accounting principles is significant to  
31 an applicant’s or a licensee’s financial health and would be required  
32 to be disclosed in the applicant’s or licensee’s annual audited  
33 financial statements, report to shareholders, or similar records.

34 (o) “Monetary value” means a medium of exchange, whether  
35 or not redeemable in money.

36 (p) “Money” means a medium of exchange that is authorized  
37 or adopted by the United States or a foreign government. The term  
38 includes a monetary unit of account established by an  
39 intergovernmental organization or by agreement between two or  
40 more governments.

1 (q) “Money transmission” means any of the following:

2 (1) Selling or issuing payment instruments.

3 (2) Selling or issuing stored value.

4 (3) Receiving money for transmission.

5 (r) “Outstanding,” with respect to payment instruments and  
6 stored value, means issued or sold by the licensee in the United  
7 States and not yet paid or refunded by the licensee, or issued or  
8 sold on behalf of the licensee in the United States by its agent and  
9 reported as sold, but not yet paid or refunded by the licensee.

10 “Outstanding,” with respect to receiving money for transmission  
11 means all money or monetary value received in the United States  
12 for transmission by the licensee or its agents but not yet paid to  
13 the beneficiaries or refunded to the person from whom the money  
14 or monetary value was received. All outstanding money  
15 transmission of a licensee is and shall remain a liability of the  
16 licensee until it is no longer outstanding.

17 (s) “Payment instrument” means a check, draft, money order,  
18 traveler’s check, or other instrument for the transmission or  
19 payment of money or monetary value, whether or not negotiable.  
20 The term does not include a credit card voucher, letter of credit,  
21 or any instrument that is redeemable by the issuer for goods or  
22 services provided by the issuer or its affiliate.

23 (t) “Person” means an individual, corporation, business trust,  
24 estate, trust, partnership, proprietorship, syndicate, limited liability  
25 company, association, joint venture, government, governmental  
26 subdivision, agency or instrumentality, public corporation or joint  
27 stock company, or any other organization or legal or commercial  
28 entity, provided, however, that “person,” when used with respect  
29 to acquiring control of or controlling a specified person, includes  
30 any combination of two or more persons acting in concert.

31 (u) “Receiving money for transmission” or “money received  
32 for transmission” means receiving money or monetary value in  
33 the United States for transmission within or outside the United  
34 States by electronic or other means. The term does not include sale  
35 or issuance of payment instruments and stored value.

36 (v) “Record” means information that is inscribed on a tangible  
37 medium or that is stored in an electronic or other medium and is  
38 retrievable in perceivable form.

39 (w) “State” means a state of the United States, the District of  
40 Columbia, Puerto Rico, the United States Virgin Islands, or any

1 territory or insular possession subject to the jurisdiction of the  
2 United States.

3 (x) “Stored value” means monetary value representing a claim  
4 against the issuer that is stored on an electronic or digital medium  
5 and evidenced by an electronic or digital record, and that is  
6 intended and accepted for use as a means of redemption for money  
7 or monetary value or payment for goods or services. The term does  
8 not include a credit card voucher, letter of credit, or any stored  
9 value that is only redeemable by the issuer for goods or services  
10 provided by the issuer or its affiliate, except to the extent required  
11 by applicable law to be redeemable in cash for its cash value.

12 (y) “Traveler’s check” means an instrument that meets all of  
13 the following:

14 (1) Is designated on its face by the term “traveler’s check” or  
15 by any substantially similar term or is commonly known and  
16 marketed as a traveler’s check.

17 (2) Contains a provision for a specimen signature of the  
18 purchaser to be completed at the time of purchase.

19 (3) Contains a provision for a countersignature of the purchaser  
20 to be completed at the time of negotiation.

21 SEC. 3. Section 2010 of the Financial Code is amended to read:  
22 2010. This division does not apply to the following:

23 (a) The United States or a department, agency, or instrumentality  
24 thereof, including any federal reserve bank and any federal home  
25 loan bank.

26 (b) Money transmission by the United States Postal Service or  
27 by a contractor on behalf of the United States Postal Service.

28 (c) A state, county, city, or any other governmental agency or  
29 governmental subdivision of a state.

30 (d) A commercial bank or industrial bank, the deposits of which  
31 are insured by the Federal Deposit Insurance Corporation or its  
32 successor, or any foreign (other nation) bank that is licensed under  
33 Chapter 20 (commencing with Section 1750) or that is authorized  
34 under federal law to maintain a federal agency or federal branch  
35 office in this state; a trust company licensed pursuant to Section  
36 1042 or a national association authorized under federal law to  
37 engage in a trust banking business; an association or federal  
38 association, as defined in Section 5102, the deposits of which are  
39 insured by the Federal Deposit Insurance Corporation or its  
40 successor; and any federally or state chartered credit union, with

1 an office in California, the member accounts of which are insured  
2 or guaranteed as provided in Section 14858.

3 (e) Electronic funds transfer of governmental benefits for a  
4 federal, state, county, or local governmental agency by a contractor  
5 on behalf of the United States or a department, agency, or  
6 instrumentality thereof, or a state or governmental subdivision,  
7 agency, or instrumentality thereof.

8 (f) A board of trade designated as a contract market under the  
9 federal Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) or a  
10 person that, in the ordinary course of business, provides clearance  
11 and settlement services for a board of trade to the extent of its  
12 operation as or for such a board.

13 (g) A person that provides clearance or settlement services  
14 pursuant to a registration as a clearing agency or an exemption  
15 from registration granted under the federal securities laws to the  
16 extent of its operation as such a provider.

17 (h) An operator of a payment system to the extent that it provides  
18 processing, clearing, or settlement services, between or among  
19 persons excluded by this section, in connection with wire transfers,  
20 credit card transactions, debit card transactions, stored value  
21 transactions, automated clearing house transfers, or similar funds  
22 transfers, to the extent of its operation as such a provider.

23 (i) A person registered as a securities broker-dealer under federal  
24 or state securities laws to the extent of its operation as such a  
25 broker-dealer.

26 (j) A person that delivers wages or salaries on behalf of  
27 employers to employees or facilitates the payment of payroll taxes  
28 to state and federal agencies, makes payments relating to employee  
29 benefit plans, makes distribution of other authorized deductions  
30 from employees' wages or salaries, or transmits other funds on  
31 behalf of an employer in connection with transactions related to  
32 employees. Notwithstanding this subdivision, a person described  
33 herein that offers money transmission services or provides stored  
34 value cards directly to individual customers shall comply with this  
35 division to the extent of that activity.

36 (k) A person listed under subdivision (d) is exempted from all  
37 the provisions of this division, except Sections 2062 and 2063.

38 (l) A transaction in which the recipient of the ~~money~~, money or  
39 other monetary value is an agent of the ~~payee~~, payee pursuant to  
40 a preexisting written contract and delivery of the money or other

1 monetary value to the agent satisfies the payor's obligation to the  
2 payee.

3 (1) For purposes of this subdivision, "agent" has the same  
4 meaning as that term is defined in Section 2295 of the Civil Code.

5 (2) For purposes of this subdivision, "payee" means the provider  
6 of goods or services, who is owed payment of money or other  
7 monetary value from the payor for the goods or services.

8 (3) For purposes of this subdivision, "payor" means the recipient  
9 of goods or services, who owes payment of money or monetary  
10 value to the payee for the goods or services.

11 SEC. 4. Section 2031 of the Financial Code is amended to read:

12 2031. Only the following persons may apply for or be issued  
13 a license:

14 (a) A corporation or limited liability company organized under  
15 the laws of this state.

16 (b) A corporation, other than a corporation organized under the  
17 laws of this state, that is qualified to transact intrastate business in  
18 this state under Chapter 21 (commencing with Section 2100) of  
19 Division 1 of Title 1 of the Corporations Code.

20 (c) A limited liability company, other than a limited liability  
21 company organized under the laws of this state, that is qualified  
22 to transact intrastate business in this state under Article 8  
23 (commencing with Section 17708.01) of the Corporations Code,  
24 except a limited liability company that is organized outside the  
25 United States shall not be issued a license.

26 SEC. 5. Section 2032 of the Financial Code is amended to read:

27 2032. (a) An applicant for licensure under this division shall  
28 pay to the commissioner a nonrefundable fee of five thousand  
29 dollars (\$5,000).

30 (b) An applicant for a license under this division shall do so in  
31 a form and in a medium prescribed by the commissioner by order  
32 or regulation. The application shall state or contain all of the  
33 following:

34 (1) The legal name and residential business address of the  
35 applicant and any fictitious or trade name used by the applicant in  
36 conducting its business.

37 (2) A list of any criminal convictions of the applicant and any  
38 material litigation in which the applicant has been involved in the  
39 10-year period next preceding the submission of the application.



1 (3) A description of any money transmission services previously  
2 provided by the applicant and the money transmission services  
3 that the applicant seeks to provide in this state.

4 (4) A list of the applicant's proposed agents and the locations  
5 in this state where the applicant and its agents propose to engage  
6 in money transmission.

7 (5) A list of other states in which the applicant is licensed to  
8 engage in money transmission and any license revocations,  
9 suspensions, or other disciplinary action taken against the applicant  
10 in another state.

11 (6) Information concerning any bankruptcy or receivership  
12 proceedings affecting the licensee.

13 (7) A sample form of payment instrument or instrument upon  
14 which stored value is recorded, if applicable.

15 (8) A sample form of receipt for transactions that involve money  
16 received for transmission.

17 (9) The name and address of any bank through which the  
18 applicant's payment instruments and stored value will be paid.

19 (10) A description of the source of money and credit to be used  
20 by the applicant to provide money transmission services.

21 (11) The date of the applicant's incorporation or formation and  
22 the state or country of incorporation or formation.

23 (12) A certificate of good standing from the state or country in  
24 which the applicant is incorporated or formed.

25 (13) A description of the structure or organization of the  
26 applicant, including any parent or subsidiary of the applicant, and  
27 whether any parent or subsidiary is publicly traded.

28 (14) The legal name, any fictitious or trade name, all business  
29 and residential addresses, and the employment, in the 10-year  
30 period next preceding the submission of the application, of each  
31 executive officer, manager, director, or person that has control, of  
32 the applicant, and the educational background for each person.

33 (15) A list of any criminal convictions and material litigation  
34 in which any executive officer, manager, director, or person in  
35 control, of the applicant has been involved in the 10-year period  
36 next preceding the submission of the application.

37 (16) A copy of the applicant's audited financial statements for  
38 the most recent fiscal year and, if available, for the two-year period  
39 next preceding the submission of the application.

1 (17) A copy of the applicant's unconsolidated financial  
2 statements for the current fiscal year, whether audited or not, and,  
3 if available, for the two-year period next preceding the submission  
4 of the application.

5 (18) If the applicant is publicly traded, a copy of the most recent  
6 report filed with the United States Securities and Exchange  
7 Commission under Section 13 of the federal Securities Exchange  
8 Act of 1934 (15 U.S.C. Sec. 78m).

9 (19) If the applicant is a wholly owned subsidiary of:

10 (A) A corporation publicly traded in the United States, a copy  
11 of audited financial statements for the parent corporation for the  
12 most recent fiscal year or a copy of the parent corporation's most  
13 recent report filed under Section 13 of the federal Securities  
14 Exchange Act of 1934 (15 U.S.C. Sec. 78m) and, if available, for  
15 the two-year period next preceding the submission of the  
16 application.

17 (B) A corporation publicly traded outside the United States, a  
18 copy of similar documentation filed with the regulator of the parent  
19 corporation's domicile outside the United States.

20 (20) The name and address of the applicant's registered agent  
21 in this state.

22 (21) The applicant's plan for engaging in money transmission  
23 business, including without limitation three years of pro forma  
24 financial statements.

25 (22) Any other information the commissioner requires with  
26 respect to the applicant.

27 (c) The commissioner may waive any of the information  
28 required under subdivision (b) or permit an applicant to submit  
29 other information instead of the required information.

30 SEC. 6. Section 2036 of the Financial Code is amended to read:

31 2036. The commissioner may impose on any authorization,  
32 approval, license, or order issued pursuant to this division any  
33 conditions that are necessary for the safety and soundness of the  
34 licensee, or reasonable or necessary to maintain or enhance  
35 consumer protection.

36 SEC. 7. Section 2038 of the Financial Code is amended to read:

37 2038. Fees shall be paid to, and collected by, the commissioner,  
38 as follows:

39 (a) The fee for filing an application for a license is five thousand  
40 dollars (\$5,000), as provided in subdivision (a) of Section 2032.

1 (b) The fee for filing an application for approval to acquire  
2 control of a licensee is three thousand five hundred dollars  
3 (\$3,500).

4 (c) A licensee shall pay annually on or before July 1, a licensee  
5 fee of two thousand five hundred dollars (\$2,500).

6 (d) A licensee shall pay annually on or before July 1, one  
7 hundred twenty-five dollars (\$125) for each licensee branch office  
8 in this state.

9 (e) A licensee shall pay annually on or before July 1, twenty-five  
10 dollars (\$25) for each agent branch office in this state.

11 (f) Whenever the commissioner examines a licensee or any  
12 agent of a licensee, the licensee shall pay, within 10 days after  
13 receipt of a statement from the commissioner, a fee of seventy-five  
14 dollars (\$75) per hour for each examiner engaged in the  
15 examination plus, if it is necessary for any examiner engaged in  
16 the examination to travel outside this state, the travel expenses of  
17 the examiner.

18 (g) Whenever the commissioner examines an applicant, the  
19 applicant shall pay, within 10 days after receipt of a statement  
20 from the commissioner, a fee of seventy-five dollars (\$75) per  
21 hour for each examiner engaged in the examination plus, if it is  
22 necessary for any examiner engaged in the examination to travel  
23 outside this state, the travel expenses of the examiner.

24 (h) Each fee for filing an application shall be paid at the time  
25 the application is filed with the commissioner. No fee for filing  
26 an application shall be refundable, regardless of whether the  
27 application is approved, denied, or withdrawn.

28 SEC. 8. Section 2039 of the Financial Code is amended to read:

29 2039. (a) The commissioner may by order or regulation grant  
30 exemptions from this section in cases where the commissioner  
31 finds that the requirements of this section are not necessary or may  
32 be duplicative.

33 (b) In addition to any other reports as may be required pursuant  
34 to Sections 453, 454, and 455, each licensee shall, within 90 days  
35 after the end of each fiscal year, or within any extended time as  
36 the commissioner may prescribe, file with the commissioner an  
37 audit report for the fiscal year that shall comply with all of the  
38 following provisions:

39 (1) The audit report shall contain audited financial statements  
40 of the licensee for or as of the end of the fiscal year prepared in

1 accordance with United States generally accepted accounting  
2 principles and any other information as the commissioner may  
3 require.

4 (2) The audit report shall be based upon an audit of the licensee  
5 conducted in accordance with United States generally accepted  
6 auditing standards and any other requirements as the commissioner  
7 may prescribe.

8 (3) The audit report shall be prepared by an independent certified  
9 public accountant or independent public accountant who is not  
10 unsatisfactory to the commissioner.

11 (4) The audit report shall include or be accompanied by a  
12 certificate of opinion of the independent certified public accountant  
13 or independent public accountant that is satisfactory in form and  
14 content to the commissioner. If the certificate or opinion is  
15 qualified, the commissioner may order the licensee to take any  
16 action as the commissioner may find necessary to enable the  
17 independent or certified public accountant or independent public  
18 accountant to remove the qualification.

19 (c) Each licensee shall, not more than 45 days after the end of  
20 each calendar year quarter, or within a longer period as the  
21 commissioner may by regulation or order specify, file with the  
22 commissioner a report containing all of the following:

23 (1) Financial statements, including balance sheet, income  
24 statement, statement of changes in shareholders' equity, and  
25 statement of cashflows, for, or as of the end of, that calendar year  
26 quarter, verified by two of the licensee's principal officers. The  
27 verification shall state that each of the officers making the  
28 verification has a personal knowledge of the matters in the report  
29 and that each of them believes that each statement on the report is  
30 true.

31 (2) For issuers and sellers of payment instruments and stored  
32 value, a schedule of eligible securities owned by the licensee  
33 pursuant to Section 2081.

34 (3) Other information as the commissioner may by regulation  
35 or order require.

36 (d) Each licensee, not more than 45 days after the end of each  
37 calendar year quarter, shall file with the commissioner a report  
38 containing all of the following:

39 (1) The current address of each branch office of the licensee in  
40 this state. If a branch office was opened or closed during the

1 calendar year quarter, the date it was opened or closed. If a branch  
2 office was relocated during the calendar year quarter, the addresses  
3 of the old and new locations and the date of relocation.

4 (2) The name of each person who acted as an agent in this state  
5 of the licensee during the calendar year quarter and the address  
6 for each agent branch office. If a person was appointed or  
7 terminated as an agent during the calendar year quarter, the date  
8 of appointment or termination. If an agent branch office relocated,  
9 the addresses for the old and new locations and the date of  
10 relocation.

11 (3) The total volume of activities, number of transactions  
12 conducted, and outstanding money transmission obligations in  
13 California under this division and in the United States in the  
14 calendar year quarter categorized by type of money transmission,  
15 and, if feasible whether the transmission was conducted via a  
16 mobile application or an Internet Web site. For money received  
17 for transmission, a report of the average daily outstanding  
18 transmission liabilities in California, and, if applicable, a schedule  
19 of each foreign country to which money was sent, along with the  
20 total amount of money sent to that foreign country in that calendar  
21 year quarter. For payment instruments and stored value, a report  
22 of the average daily outstanding payment instruments and stored  
23 value liabilities in California in that calendar year quarter.

24 (4) Other information as the commissioner may by regulation  
25 or order require.

26 (e) Each licensee shall file with the commissioner other reports  
27 as and when the commissioner may by regulation or order require.

28 SEC. 9. Section 2043 of the Financial Code is amended to read:

29 2043. (a) On or before April 1, 2013, and annually thereafter,  
30 each licensee shall provide its agents under contract with training  
31 materials on recognizing elder or dependent adult financial abuse,  
32 and how to appropriately respond if the agent suspects that he or  
33 she is being asked to engage in money transmission for a fraudulent  
34 transaction involving an elder or dependent adult.

35 (b) To ensure that agents that are newly appointed by licensees  
36 pursuant to Section 2060 receive the training materials described  
37 in subdivision (a) in a timely manner, each licensee shall provide  
38 those materials to any newly appointed agent no later than one  
39 month following the appointment of that agent.

(c) This section shall not apply to licensees that are engaged solely in selling or issuing stored value pursuant to paragraph (2) of subdivision (q) of Section 2003. Licensees that engage in money transmission activities pursuant to paragraph (1) or (3) of that subdivision, shall be subject to this section only with respect to their agents under contract for activities described in those paragraphs. Additionally, this section shall not apply to licensees who exclusively offer their services via an Internet Web site, a mobile application, or both.

SEC. 10. Section 2082 of the Financial Code is amended to read:

2082. (a) “Eligible security” means any United States currency eligible security or foreign currency eligible security.

(b) For the purposes of this division, the following are United States currency eligible securities:

(1) Cash.

(2) Any deposit in an insured bank or an insured savings and loan association or insured credit union.

(3) Any bond, note, or other obligation that is issued or is guaranteed by the United States or any agency of the United States.

(4) Any bond, note, or other obligation that is issued or guaranteed by any state of the United States or by any governmental agency of or within any state of the United States and that is assigned an eligible rating by an eligible securities rating service.

(5) Any bankers acceptance that is eligible for discount by a federal reserve bank.

(6) Any commercial paper that is assigned an eligible rating by an eligible rating securities service.

(7) Any bond, note, or other obligation that is assigned an eligible rating by an eligible securities rating service.

(8) Any share of an investment company that is an open-end management company, that is registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), that holds itself out to investors as a money market fund, and that operates in accordance with all provisions of the Investment Company Act of 1940, and the regulations of the Securities and Exchange Commission applicable to money market funds, including Section 270.2a-7 of the regulations of the Securities and Exchange Commission (17 C.F.R. 270.2a-7).

1 For purposes of this paragraph and paragraph (9), “investment  
2 company,” “management company,” and “open-end” have the  
3 meanings set forth in Sections 3, 4, and 5, respectively, of the  
4 Investment Company Act of 1940 (15 U.S.C. Secs. 80a-4 and  
5 80a-5, respectively).

6 (9) Any share of an investment company that is an open-end  
7 management company, that is registered under the Investment  
8 Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), and that  
9 invests exclusively in securities that constitute eligible securities  
10 that comply with *the* valuation requirements of this division.

11 (10) Any account due to any licensee from any agent in the  
12 United States on account of the receipt of money on behalf of the  
13 licensee for money transmission by the agent, if the account is  
14 current and not past due or otherwise doubtful of collection.

15 (11) Any other security or class of securities that the  
16 commissioner has by regulation or order declared to be eligible  
17 securities.

18 (12) Any receivable owed by a bank and resulting from an  
19 automated clearinghouse, debit, or credit-funded transmission.

20 (c) “Foreign currency eligible security” means any of the  
21 following that is denominated in a foreign currency:

22 (1) Cash.

23 (2) Any deposit in an office of a bank acceptable to the  
24 commissioner that is located in a foreign country.

25 (3) Any other security or class of securities that the  
26 commissioner has by regulation or order declared to be eligible  
27 securities pursuant to Section 2086.

28 (d) For the purposes of this division, “value” means the  
29 following:

30 (1) When used with respect to an eligible security owned by a  
31 licensee of the type described in paragraph (10) of subdivision (b),  
32 net carrying value as determined in conformity with United States  
33 generally accepted accounting principles. However, in computing  
34 the value of the account, any amount that consists of money that  
35 has not been remitted to the licensee or refunded within 45 business  
36 days of receipt by the agent shall be excluded from the value of  
37 the account and shall be excluded from the calculation of eligible  
38 securities.

39 (2) Market value when used with respect to any other eligible  
40 security owned by a licensee.

1 SEC. 11. Section 2088 of the Financial Code is amended to  
2 read:

3 2088. (a) The commissioner may by regulation or order declare  
4 a credit rating agency to be an eligible securities rating service if  
5 the commissioner finds the following with respect to the securities  
6 rating service:

7 (1) It has been continuously engaged in the business of rating  
8 securities for a period of not less than three years.

9 (2) It is competent to rate securities and is nationally recognized  
10 for rating securities in a competent manner.

11 (3) It publishes its ratings of securities on a nationwide basis.

12 (b) With respect to this division “eligible securities rating  
13 service” means any credit rating agency that the commissioner by  
14 regulation or order declared to be an eligible securities ratings  
15 service.

16 SEC. 12. Section 2102 of the Financial Code is amended to  
17 read:

18 2102. (a) Every licensee or its agent shall refund to the  
19 customer within 10 days of receipt of the customer’s written request  
20 for a refund any and all money received for transmission unless  
21 any of the following occurs:

22 (1) The money has been forwarded within 10 days of the date  
23 of receipt.

24 (2) Instructions have been given committing an equivalent  
25 amount of money to the person designated by the customer within  
26 10 days of the date of the receipt of the money from the customer.

27 (3) The customer instructs the licensee to transmit the money  
28 at a time beyond 10 days. If the customer gives instructions as to  
29 when the money shall be forwarded or transmitted and the moneys  
30 have not yet been forwarded or transmitted, the licensee or its  
31 agent shall refund the customer’s money within 10 days of receipt  
32 of the customer’s written request for a refund.

33 (4) The refund would violate law.

34 (b) If a customer’s instructions as to when the money shall be  
35 forwarded or transmitted are not complied with and the money has  
36 not yet been forwarded or transmitted, the customer has a right to  
37 a refund of his or her money. A cause of action under this section  
38 may be brought in small claims court if it does not exceed the  
39 jurisdiction of that court, or in any other appropriate court. The  
40 customer shall be entitled to recover each of the following:



1 (1) Any and all money received for transmission, plus any fees  
2 and charges paid by the customer.

3 (2) A penalty in an amount not to exceed one thousand dollars  
4 (\$1,000). The court shall award the prevailing party costs and  
5 attorney's fees.

6 SEC. 13. Section 2103 of the Financial Code is amended to  
7 read:

8 2103. (a) In the case of money received for transmission, the  
9 licensee or its agent shall give the customer a receipt at the time  
10 of the transaction.

11 (1) The receipt shall contain the following information, as  
12 applicable:

13 (A) The name of the sender.

14 (B) The name of the designated recipient.

15 (C) The date of the transaction, which is the day the customer  
16 funds the money transmission.

17 (D) The name of the licensee.

18 (E) The amount to be transferred to the designated recipient, in  
19 the currency in which the money transmission is funded, using the  
20 term "Transfer Amount" or a substantially similar term.

21 (F) Any fees and taxes imposed on the money transmission by  
22 the licensee or its agent which are payable or have been paid by  
23 the sender, in the currency in which the money transmission is  
24 funded, using the terms "transfer fees" for fees and "transfer taxes"  
25 for taxes, or substantially similar terms.

26 (G) The total amount of the transaction, which is the sum of  
27 subparagraphs (E) and (F), in the currency in which the money  
28 transmission is funded, using the term "total" or a substantially  
29 similar term.

30 (H) The exchange rate, if any, used by the licensee or its agent  
31 for the money transmission, rounded consistently for each currency  
32 to no fewer than two decimal places and no more than four decimal  
33 places, using the term "exchange rate" or a substantially similar  
34 term.

35 (I) For all transmissions, other than transmissions related to  
36 e-commerce transactions, the amount that will be received by the  
37 designated recipient, in the currency in which the funds will be  
38 received, using the term "total to recipient" or a substantially  
39 similar term. For transmissions related to e-commerce transactions,  
40 the amount that will be received by the designated recipient before

1 any fees, taxes, or other amounts payable by the designated  
2 recipient are deducted, using the term “total to recipient” or a  
3 substantially similar term. These fees, taxes, or other amounts shall  
4 be disclosed to the designated recipient. The disclosure of fees,  
5 taxes, or other amounts payable by the designated recipient, which  
6 need not be disclosed to the sender, shall be disclosed as part of a  
7 separate written agreement between the licensee and the designated  
8 recipient.

9 (2) (A) In addition to the disclosures set forth in paragraph (1),  
10 the receipt shall either include or have attached a conspicuous  
11 statement as follows:  
12  
13

14 “RIGHT TO REFUND  
15

16 You, the customer, are entitled to a refund of the money to be transmitted as  
17 the result of this agreement if \_\_\_\_\_ (name of licensee) does not forward the  
18 money received from you within 10 days of the date of its receipt, or does not  
19 give instructions committing an equivalent amount of money to the person  
20 designated by you within 10 days of the date of the receipt of the funds from  
21 you unless otherwise instructed by you.  
22

23 If your instructions as to when the moneys shall be forwarded or transmitted  
24 are not complied with and the money has not yet been forwarded or transmitted,  
25 you have a right to a refund of your money.  
26

27 If you want a refund, you must mail or deliver your written request to \_\_\_\_\_  
28 (name of licensee) at \_\_\_\_\_ (mailing address of licensee). If you do not receive  
29 your refund, you may be entitled to your money back plus a penalty of up to  
30 \$1,000 and attorney’s fees pursuant to Section 2102 of the California Financial  
31 Code.”  
32  
33

34 (B) The right to refund statement set forth in subparagraph (A)  
35 is not required to be included on receipts involving e-commerce  
36 transactions where the customer sends a payment for goods or  
37 services.

38 (3) The receipt required by this section shall be made in English  
39 and in the language principally used by that licensee or that agent  
40 to advertise, solicit, or negotiate, either orally or in writing, at that

1 branch office, if other than English. For transactions that do not  
2 occur in a branch office, the receipt shall be made in English and  
3 in the language principally used by that licensee or that agent to  
4 advertise, solicit, or negotiate money transmission, either orally  
5 or in writing.

6 (4) The receipt required by this subdivision may be provided  
7 electronically for transactions that are initiated electronically or  
8 in which a customer agrees to receive an electronic receipt.

9 (5) Disclosures in the receipt required by this subdivision shall  
10 be in a minimum 8-point font, except for receipts provided via  
11 mobile phone or text message.

12 (b) If window and exterior signs concerning the rates of  
13 exchange for money received for transmission are used, they shall  
14 clearly state in English and in the same language principally used  
15 by the licensee or any agent of the licensee to advertise, solicit, or  
16 negotiate, either orally or in writing, at that branch office if other  
17 than English, the rate of exchange for exchanging the currency of  
18 the United States for foreign currency. If an interior sign or any  
19 advertising is used that quotes exchange rates, it shall, in addition  
20 to clearly stating the rates of exchange for exchanging the currency  
21 of the United States for foreign currency, also state all commissions  
22 and fees charged on all such transactions.

23 (c) At each branch office, there shall be disclosed the exchange  
24 rates, fees, and commissions charged in English and in the same  
25 language principally used by the licensee or any agent of the  
26 licensee to advertise, solicit, or negotiate, either orally or in writing,  
27 with respect to money received for transmission at that branch  
28 office. At each branch office, there shall be signage clearly  
29 identifying the name of the licensee as well as any trade names  
30 used by the licensee at that branch office. In the event that a  
31 licensee or agent conducts money transmission activity via an  
32 Internet Web site or mobile application that is not in a branch  
33 office, the commissioner may authorize an alternative disclosure  
34 meeting the requirements of this section. Any Internet Web site  
35 through which a licensee conducts money transmission shall clearly  
36 identify the name of the licensee as well as any trade names used  
37 by the licensee on the Internet Web site.

38 (d) If the customer does not specify at the time the money is  
39 presented to the licensee or its agent the country to which the  
40 money is to be transmitted, the rate of exchange for the transaction

1 is not required to be set forth on the receipt. If the customer does  
2 specify at the time the money is presented to the licensee or its  
3 agent the country to which the money is to be transmitted but the  
4 specified country's laws require the rate of exchange for the  
5 transaction to be determined at the time the transaction is paid out  
6 to the intended recipient, the rate of exchange for the transaction  
7 is not required to be set forth on the receipt.

8 SEC. 14. Section 2105 of the Financial Code is amended to  
9 read:

10 2105. (a) Each licensee or agent shall prominently post on the  
11 premises of each branch office that conducts money transmission  
12 a notice stating that:

13  
14 "If you have complaints with respect to any aspect of the money  
15 transmission activities conducted at this location, you may contact the  
16 California Department of Business Oversight at its toll-free telephone  
17 number, 1-800-622-0620, by email at [consumer.services@dbo.ca.gov](mailto:consumer.services@dbo.ca.gov), or  
18 by mail at *the* Department of Business Oversight, Consumer Services,  
19 1515 K Street, Suite 200, Sacramento, CA 95814."

20  
21 (b) The commissioner may by order or regulation modify the  
22 content of the notice required by this section. This notice shall be  
23 printed in English and in the same language principally used by  
24 the licensee or any agent of the licensee to advertise, solicit, or  
25 negotiate either orally or in writing, with respect to money  
26 transmission at that branch office. The information required in this  
27 notice shall be clear, legible, and in letters not less than one-half  
28 inch in height. The notice shall be posted in a conspicuous location  
29 in the unobstructed view of the public within the premises. The  
30 licensee shall provide to each of its agents the notice required by  
31 this section. In those locations operated by an agent, the agent, and  
32 not the licensee, shall be responsible for the failure to properly  
33 post the required notice.

34 (c) In the event that a licensee or agent conducts money  
35 transmission activity via an Internet Web site or a mobile  
36 application that is not in a branch office, the commissioner may  
37 authorize an alternative form of the notice required in subdivision  
38 (a).

39 SEC. 15. Section 2124 of the Financial Code is amended to  
40 read:

1 2124. (a) A licensee shall maintain the following records for  
2 determining its compliance with this division for at least three  
3 years:

4 (1) A record of each payment instrument or stored value  
5 obligation sold.

6 (2) A general ledger posted at least monthly containing all asset,  
7 liability, capital, income, and expense accounts.

8 (3) Bank statements and bank reconciliation records.

9 (4) Records of outstanding payment instruments and stored  
10 value obligations.

11 (5) Records of each payment instrument and stored-value  
12 obligation paid within the three-year period.

13 (6) A list of the last known names and addresses of all of the  
14 licensee's agents and their branch offices.

15 (7) Any other records the commissioner reasonably requires by  
16 order or regulation.

17 (b) A licensee or its agent shall maintain records of any receipts  
18 provided pursuant to Section 2102 for six months or a longer period  
19 of time specified in the contract between the licensee and its agent.

20 (c) The items specified in subdivisions (a) and (b) may be  
21 maintained in any form of record.

22 (d) Records may be maintained outside this state if they are  
23 made available to the commissioner on seven days' notice that is  
24 sent in a record.

25 (e) If records not required to be maintained in English pursuant  
26 to Section 456 are in a language other than English, the licensee  
27 shall provide records translated into English within seven days'  
28 notice that is sent in a record.

29 (f) Each licensee shall maintain any other records required by  
30 the commissioner.

31 SEC. 16. Section 2175 of the Financial Code is amended to  
32 read:

33 2175. The commissioner may offer informal guidance to any  
34 prospective applicant for a license under this division, regarding  
35 the conditions of licensure that may be applied to that person. The  
36 commissioner shall inform any applicant that requests that guidance  
37 of the minimum net worth, and other licensing requirements, that  
38 will be required of that applicant, based on the information  
39 provided by the applicant concerning its plan to conduct business

1 under this division, and the factors used to make that determination  
2 as described in Section 2040.

3 SEC. 17. Section 2176 is added to the Financial Code, to read:

4 2176. At any time, if the commissioner deems it necessary for  
5 the general welfare of the public, he or she may exercise any power  
6 set forth in this division with respect to a money transmission  
7 business, regardless of whether an application for a license has  
8 been filed with the commissioner, a license has been issued, or, if  
9 issued, the license has been surrendered, suspended, or revoked.

10 SEC. 18. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.